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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
1987

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OCTOBER 1, 1986.—Ordered to be printed

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Mr. HAMILTON, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 4759]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4759) to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, having agreed to so recommend, do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1987".*

**TITLE I—INTELLIGENCE ACTIVITIES**

**AUTHORIZATION OF APPROPRIATIONS**

*SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1987 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:*

- (1) The Central Intelligence Agency.*
- (2) The Department of Defense.*
- (3) The Defense Intelligence Agency.*
- (4) The National Security Agency.*

- (5) *The Department of the Army, the Department of the Navy, and the Department of the Air Force.*
- (6) *The Department of State.*
- (7) *The Department of the Treasury.*
- (8) *The Department of Energy.*
- (9) *The Federal Bureau of Investigation.*
- (10) *The Drug Enforcement Administration.*

#### CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a) *The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1987, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 4759 of the Ninety-ninth Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.*

(b) *Funds appropriated to the Department of Defense for fiscal year 1987 for intelligence and intelligence-related activities and listed under the heading "ADDITIONAL SPECIFICALLY AUTHORIZED ACTIVITIES" in the Schedule of Authorizations to which subsection (a) refers, shall be considered to be specifically authorized by the Congress for such activities for purposes of section 502 of the National Security Act of 1947, notwithstanding the absence of authorizations of appropriations for such activities in this Act.*

#### PERSONNEL CEILING ADJUSTMENTS

SEC. 103. *The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1987 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.*

#### AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 104. *The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.*

#### INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 105. *Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased*

by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

**RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA**

*SEC. 106. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.*

**RESTRICTION ON INTELLIGENCE AGENCY COOPERATION WITH SOUTH AFRICA**

*SEC. 107. No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. It is the policy of the United States that no agency or entity of the United States involved in intelligence activities may provide any intelligence information to the Government of South Africa which pertains to a South African internal opposition group, movement, organization, or individual. Any change in such policy, or the provision of intelligence information contrary to such policy, shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947.*

**TITLE II—INTELLIGENCE COMMUNITY STAFF**

**AUTHORIZATION OF APPROPRIATIONS**

*SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1987 the sum of \$22,000,000.*

**AUTHORIZATION OF PERSONNEL END-STRENGTH**

*SEC. 202. (a) The Intelligence Community Staff is authorized two hundred thirty seven full-time personnel as of September 30, 1987. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.*

*(b) During fiscal year 1987, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.*

*(c) During fiscal year 1987, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the per-*

formance of temporary functions as required by the Director of Central Intelligence.

**INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS  
CENTRAL INTELLIGENCE AGENCY**

**SEC. 203.** *During fiscal year 1987, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.*

**TITLE III—CENTRAL INTELLIGENCE AGENCY  
RETIREMENT AND RELATED MATTERS**

**AUTHORIZATION OF APPROPRIATIONS**

**SEC. 301.** *There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1987 the sum of \$125,800,000.*

**SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES OF CIA  
EMPLOYEES**

**SEC. 302.** *(a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new section:*

**“SURVIVOR BENEFITS FOR CERTAIN OTHER FORMER SPOUSES**

**SEC. 224.** *(a)(1) Any individual who was a former spouse of a participant or former participant on November 15, 1982, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 per centum of the greater of—*

*“(A) the full amount of the participant’s or former participant’s annuity, as computed under section 221(a); or*

*“(B) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.*

*“(2) A survivor annuity payable under this section shall be reduced by an amount equal to the amount of retirement benefits, not including benefits under title II of the Social Security Act, received by the former spouse which are attributable to previous employment of such former spouse by the United States.*

*“(b) A former spouse shall not be entitled to a survivor annuity under this section if—*

*“(1) an election has been made with respect to such former spouse under section 223;*

*“(2) the former spouse remarries before age fifty-five; or*

*“(3) the former spouse is less than fifty years of age.*

*“(c)(1) The entitlement of a former spouse to a survivor annuity under this section—*

*“(A) shall commence—*

*"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on the later of—*

*"(I) The sixtieth day after such date; or*

*"(II) the date such former spouse reaches age fifty; and*

*"(ii) in the case of any other former spouse, beginning on the latest of—*

*"(I) the date that the participant or former participant to whom the former spouse was married dies;*

*"(II) the sixtieth day after the effective date of this section; or*

*"(III) the date such former spouse reaches age fifty; and*

*"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age fifty-five.*

*"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, within thirty months after the effective date of this section.*

*"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.*

*"(d) The Director shall—*

*"(1) as soon as possible, but not later than sixty days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and*

*"(2) to the maximum extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on November 15, 1982, of any rights which such individual may have under this section."*

*(b) Section 14(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403n(a)) is amended by inserting "224," after "222, 223,"*

*(c) For fiscal year 1987, not to exceed \$500,000 shall be available from amounts appropriated under the authority of section 101(1) of this Act for survivor annuities under section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and under the amendment made by subsection (b) of this section.*

*(d) The amendments made by this section shall take effect on October 1, 1986.*

**HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES**

**SEC. 303. (a) The Central Intelligence Agency Act of 1949 is amended by adding at the end a new section as follows:**

**"HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES**

**"SEC. 16. (a) Except as provided in subsection (c)(1), any individual—**

**"(1) formerly married to an employee or former employee of the Agency, whose marriage was dissolved by divorce or annulment before May 7, 1985;**

**"(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and**

**"(3) who was married to such employee for not less than ten years during periods of service by such employee with the Agency, at least five years of which were spent outside the United States by both the employee and the former spouse, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.**

**"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the six-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—**

**"(A) files an election for such enrollment; and**

**"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.**

**"(2) The Director of Central Intelligence shall, as soon as possible, take all steps practicable—**

**"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and**

**"(B) to notify each such former spouse of that individual's rights under this section.**

**"(3) The Director of the Office of Personnel Management, upon notification by the Director of Central Intelligence, shall waive the six-month limitation set forth in paragraph (1) in any case in which the Director of Central Intelligence determines that the circumstances so warrant.**

**"(c)(1) Any former spouse who remarries before age fifty-five is not eligible to make an election under subsection (b)(1).**

**"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age fifty-five shall not be eligible for continued enrollment under this section after the end of the thirty-one-day period beginning on the date of remarriage.**

**"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is**

enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code."

(b) The amendment made by this section shall take effect on October 1, 1986.

## TITLE IV—COUNTERINTELLIGENCE AND SECURITY

### COUNTERINTELLIGENCE OFFICIAL VISITOR EXCHANGES

SEC. 401. (a) Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

**"§ 539. Counterintelligence official reception and representation expenses**

"The Director of the Federal Bureau of Investigation may use funds available to the Federal Bureau of Investigation for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Federal Bureau of Investigation for consultation on counterintelligence matters."

(b) The table of contents for chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following:

"539. Counterintelligence official reception and representation expenses."

(c) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"§ 140a. Counterintelligence official reception and representation expenses**

"The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Department of Defense for consultation on counterintelligence matters."

(d) The table of contents for chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following:

"140a. Counterintelligence official reception and representation expenses."

### FBI ACCESS TO STATE AND LOCAL CRIMINAL RECORDS FOR SECURITY CLEARANCES

SEC. 402. (a) Section 9101 of title 5, United States Code, is amended as follows:

(1) in paragraph (1) of subsection (b) by striking "or" after "Office of Personnel Management," by inserting "or the Federal Bureau of Investigation," after "the Central Intelligence Agency," and by striking "department, office or agency" and inserting in lieu thereof "department, office, agency or bureau";

(2) in subparagraph (3)(A) of subsection (b) by striking "or" after "Office of Personnel Management," by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency", by striking "department, office, or agency" and insert-

ing in lieu thereof "department, office, agency, or bureau", and by striking "department, office, or agency." and inserting in lieu thereof "department, office, agency, or bureau.";

(3) in subparagraph (3)(A) of subsection (b) by striking "or" after "Office of Personnel Management," by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency"; and

(4) in subsection (c) by striking "or" after "Office of Personnel Management," by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency".

(b) Section 803(a) of the Intelligence Authorization Act for fiscal year 1986 (Public Law 99-169) is amended by striking "and" after "Office of Personnel Management," and by inserting "and the Federal Bureau of Investigation," after "the Central Intelligence Agency,".

(c) The amendments made by this section shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Federal Bureau of Investigation for purposes specified in paragraph (b)(1) of section 9101 of title 5, United States Code.

**PERMANENT EXTENSION OF DOD AUTHORITY TO USE PROCEEDS FROM COUNTERINTELLIGENCE OPERATIONS**

**SEC. 403.** (a) Chapter 4 of title 10, United States Code, as amended by section 401(c) of this Act, is further amended by adding at the end thereof the following new section:

**"§ 140b. Authority to use proceeds from counterintelligence operations of the military departments**

"(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, United States Code, use of proceeds from counterintelligence operations conducted by components of the military departments to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make exceptional performance awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

"(b) As soon as the net proceeds from such counterintelligence operations are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

"(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management, and disposition of proceeds from counterintelligence operations conducted by components of the military departments, including effective internal systems of accounting and administrative controls."

(b) The table of contents for chapter 4 of title 10, United States Code, as amended by Section 401(d) of this Act, is further amended by adding at the end thereof the following:

"140b. Authority to use proceeds from counterintelligence operations of the military departments."

**FEDERAL BUREAU OF INVESTIGATION COUNTERINTELLIGENCE ACCESS  
TO FINANCIAL RECORDS OF AGENTS OF FOREIGN POWERS**

**SEC. 404.** *Section 1114(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)) is amended by adding at the end thereof the following new paragraph:*

*"(5)(A) Financial institutions, and officers, employees, and agents thereof, shall comply with a request for a customer's or entity's financial records made pursuant to this subsection by the Federal Bureau of Investigation when the Director of the Federal Bureau of Investigation (or the Director's designee) certifies in writing to the financial institution that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).*

*"(B) The Federal Bureau of Investigation may disseminate information obtained pursuant to this paragraph only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.*

*"(C) On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to this paragraph.*

*"(D) No financial institution, or officer, employee, or agent of such institution, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to a customer's or entity's financial records under this paragraph."*

**TITLE V—ADMINISTRATIVE AUTHORITIES RELATING TO  
INTELLIGENCE PERSONNEL**

**DEFENSE INTELLIGENCE AGENCY CIVILIAN MEDICAL EVACUATION  
BENEFIT**

**SEC. 501.** *Subsection 1605(a) of title 10, United States Code, is amended by inserting ", (5)" after "paragraphs (2), (3), (4)" and after "(22 U.S.C. 4081 (2), (3), (4))".*

**ONE YEAR EXTENSION OF DEFENSE INTELLIGENCE AGENCY SPECIAL  
TERMINATION AUTHORITY**

**SEC. 502.** *Paragraph 1604(e)(1) of title 10, United States Code, is amended by striking "fiscal years 1985 and 1986" and inserting in lieu thereof "fiscal years 1986 and 1987".*

**ACCEPTANCE OF DIRECTOR OF CENTRAL INTELLIGENCE AWARDS BY  
MILITARY INTELLIGENCE PERSONNEL**

**SEC. 503.** *Section 402 of the Intelligence Authorization Act for Fiscal Year 1984 (Public Law 98-215) is amended by adding at the end thereof the following:*

*"(c) During fiscal year 1987, the Director of Central Intelligence may exercise the authority granted in section 4503(2) of title 5, United States Code, with respect to members of the Armed Forces who are assigned to foreign intelligence duties at the time of the conduct which gives rise to the exercise of such authority.*

*"(d) An award made by the Director of Central Intelligence to an employee or member of the Armed Forces under the authority of section 4503 of title 5, United States Code, of this section may be paid and accepted notwithstanding—*

*"(1) section 5536 of title 5, United States Code; and*

*"(2) the death, separation, or retirement of the employee or the member of the Armed Forces whose conduct gave rise to the award, or the assignment of such member to duties other than foreign intelligence duties."*

**MANAGEMENT OF CIVILIAN INTELLIGENCE PERSONNEL OF THE  
MILITARY DEPARTMENTS**

**SEC. 504.** *(a) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:*

**"§ 1590. Management of civilian intelligence personnel of the military departments**

*"(a) The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—*

*"(1) establish such positions for civilian intelligence officers and employees of the military departments as may be necessary to carry out the intelligence functions of such departments;*

*"(2) appoint individuals to such positions; and*

*"(3) fix the compensation of such individuals for service in such positions.*

*"(b) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except in the case of a civilian intelligence officer or employee of a military department serving as a member of the Senior Executive Service of a military department, no civilian intelligence officer or employee of a military department may be paid basic pay at a rate in excess of the highest rate of basic pay payable under such General Schedule.*

*"(c) The Secretary of Defense is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provide for prevailing rate systems of basic pay and to apply such provisions to positions for civilian intelligence officers or employees in or under which the military departments may employ individuals described by section 5342(a)(2)(A) of such title.*

*"(d) In addition to the basic pay payable under subsection (b), civilian intelligence officers and employees of the military departments who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid allowances, in accordance with regulations prescribed by the Secretary of Defense, not in excess of an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute. Such allowances shall be based on—*

*"(1) living costs substantially higher than in the District of Columbia;*

*"(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or*

*"(3) both of the factors described in paragraphs (1) and (2).*

*"(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may, during fiscal year 1987, terminate the employment of any civilian intelligence officer or employee of a military department whenever he considers that action to be in the interests of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.*

*"(2) Any termination of employment under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.*

*"(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense or the Secretary concerned or both. An action to terminate any civilian intelligence officer or employee of a military department by either such officer shall be appealable to the Secretary of Defense."*

*(b) The table of sections at the beginning of chapter 81 of title 10, United States Code is amended by adding at the end thereof the following new item:*

*"1590. Management of civilian intelligence personnel of the military departments."*

*(c) The Secretary of Defense shall conduct a comprehensive review and evaluation of the implementation of Section 1590 of title 10, United States Code and shall report thereon to the Congress no later than March 1, 1989. Such report shall—*

*(1) describe the extent to which the civilian intelligence personnel management systems established under Section 1590 of title 10 have improved acquisition and retention of civilian intelligence personnel by the military departments;*

*(2) describe the elements of uniformity among the civilian intelligence personnel management systems established under Section 1590 of title 10;*

(3) describe the elements of diversity among the civilian intelligence personnel management systems established under Section 1590 of title 10, and explain the need for such diversity based on differences in the intelligence needs or missions of the military departments;

(4) describe the means for oversight within the Office of the Secretary of Defense and each of the military departments for ensuring consistent application of regulations, directives, and guidelines which implement the authority granted under Section 1590 of title 10;

(5) contain recommendations for any legislative changes the Secretary of Defense may deem appropriate; and

(6) include such other matters as the Secretary of Defense may deem appropriate.

#### NATIONAL SECURITY AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 505. The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end thereof the following section:

"SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

"(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

"(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

"(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

"(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

"(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

"(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily; and

"(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by

*the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).*

*"(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.*

*"(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).*

*"(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary determines that equity or the interests of the United States so require.*

*"(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.*

*"(e)(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.*

*(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.*

*"(f) Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.*

*"(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section."*

#### **CENTRAL INTELLIGENCE AGENCY ACQUISITION OF CRITICAL SKILLS**

**SEC. 506.** Pursuant to the authority granted in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), the Director of Central Intelligence shall establish an undergraduate training program with respect to civilian employees of the Central Intelligence Agency similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized

to establish under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

#### REPORT ON INTELLIGENCE PERSONNEL SYSTEMS

**SEC. 507.** Not later than January 3, 1987, the Secretary of Defense and the Director of Central Intelligence shall submit jointly to the Congress an unclassified report describing the civilian personnel systems for officers and employees of the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and the personnel systems for officers and employees established under section 1590 of title 10, United States Code, as added by section 504, for civilian intelligence personnel of the military departments. The report shall include descriptions of—

(1) how each such intelligence personnel system differs from the competitive service and from each other such system;

(2) the specific features of each such personnel system to ensure compliance with the merit system principles set forth in section 2301 of title 5, United States Code;

(3) any features of compensation (including bonuses and awards) unique to such personnel system;

(4) authorities to take actions (including the number of such actions) through employment termination provisions which do not permit appeals outside the agency; and

(5) any recruitment or retention problems existing within such system.

#### TITLE VI—MISCELLANEOUS

##### DEFENSE MAPPING AGENCY EXCHANGE AGREEMENTS

**SEC. 601.** (a) Chapter 167 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**“§ 2795. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations**

*“The Secretary of Defense may authorize the Defense Mapping Agency to exchange or furnish mapping, charting, and geodetic data, supplies and services to a foreign country or international organization pursuant to an agreement for the production or exchange of such data.”*

(b) The table of contents of chapter 167 of title 10, United States Code, is amended by adding at the end thereof:

*“2795. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations.”*

##### NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

**SEC. 602.** (a) Title V of the National Security Act of 1947, relating to accountability for intelligence activities, is amended by adding at the end thereof the following:

**"NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES  
AND DEFENSE SERVICES**

**"SEC. 503. (a)(1) The transfer of a defense article or defense service exceeding \$1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of section 501 of this Act.**

**"(2) Paragraph (1) does not apply if—**

**"(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or**

**"(B) the transfer—**

**"(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(b)(1) of that title), or the Federal Property and Administrative Services Act of 1949, and**

**"(ii) is not being made in conjunction with an intelligence or intelligence-related activity.**

**"(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.**

**"(b) As used in this section—**

**"(1) the term 'intelligence agency' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities:**

**"(2) the terms 'defense articles' and 'defense services' mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121);**

**"(3) the term 'transfer' means—**

**"(A) in the case of defense articles, the transfer of possession of those articles; and**

**"(B) in the case of defense services, the provision of those services; and**

**"(4) the term 'value' means—**

**"(A) in the case of defense articles, the greater of—**

**"(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government;**  
or

**"(ii) the replacement cost; and**

**"(B) in the case of defense services, the full cost to the Government of providing the services."**

**(b) The table of contents at the end of the first section of such Act is amended by inserting the following after the item relating to section 502:**

**"503. Notice to Congress of certain transfers of defense articles and defense services."**

**COVERT AGENT DISCLOSURE FEDERAL PENSION FORFEITURE**

*SEC. 603. Section 8312(c)(1)(C) of title 5, United States Code is amended by striking the period at the end thereof and inserting in lieu thereof "or section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to intelligence identities)."*

**Title VII—PROTECTION OF UNITED STATES INTERESTS**

**FOREIGN MISSIONS ACT AMENDMENT**

*SEC. 701. Section 202(a)(4) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) is amended to read as follows:*

*"(4) 'foreign mission' means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by—*

*"(A) a foreign government, or*

*"(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity,*

*including any real property of such a mission and including the personnel of such a mission;"*

**SOVIET MISSION AT THE UNITED NATIONS**

*SEC. 702. (a)(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of United States nationals who serve as members of the United States mission at the United Nations headquarters, unless the President determines that the admission to the United States of additional Soviet nationals to serve as members of the Soviet mission at the United Nations headquarters would be in the interest of the United States.*

*(2) Beginning six months after the date of enactment of this section, and every six months thereafter, the Secretary of State shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the number of Soviet nationals admitted during the preceding six month period to the United States pursuant to a determination of the President under paragraph (1) and their duties with the Soviet mission at the United Nations headquarters.*

*(3) Nothing in this subsection may be construed as including any dependent or spouse who is not a member of a mission at the United Nations headquarters in the calculation of the number of members of a mission at the United Nations headquarters.*

*(b) It is the sense of the Congress that the Secretary of State and the Attorney General should, not later than six months after the date of enactment of this section, prepare and transmit to the Com-*

mittee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet nationals described in paragraph (a)(1) does not exceed the limitation described in that paragraph.

(c) For purposes of this section—

(1) the term “members of the Soviet mission” and “members of the United States mission” are used within the meaning of the term “members of the mission”, as defined by article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961; and

(2) the term “mission at the United Nations headquarters” of a country includes all the missions of such country to the United Nations in New York City and includes missions in New York City to specialized agencies of the United Nations, as defined in article 57 of the charter of the United Nations.

#### REGISTRATION OF AGENTS OF CERTAIN FOREIGN GOVERNMENTS

SEC. 703. Section 951 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

“(e) Notwithstanding paragraph (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

“(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

“(2) such person—

“(A) is an agent of the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba, unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States require that the provisions of this section do not apply in specific circumstances to agents of such country; or

“(B) has been convicted of, or has entered a plea of *nolo contendere* with respect to, any offense under section 792 through 799, 831, or 2381 of this title or under section 11 of the Export Administration Act of 1979, except that the provisions of this subsection shall not apply to a person described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of *nolo contendere*, as the case may be.”.

And the Senate agree to the same.

LEE H. HAMILTON,  
LOUIS STOKES,  
DAVE MCCURDY,  
ANTHONY C. BEILENSON,  
BOB KASTENMEIER,  
DAN DANIEL,  
ROBERT A. ROE,  
GEORGE E. BROWN, Jr.,

MATTHEW F. McHUGH,  
 BERNARD J. DWYER,  
 BOB STUMP,  
 ANDY IRELAND,  
 HENRY J. HYDE,  
 DICK CHENEY,  
 BOB LIVINGSTON,  
 BOB MCEWEN

(For consideration of matters within the jurisdiction of the Committee on Armed Services under clause 1(c) of House Rule X),

LES ASPIN,  
 SAMUEL S. STRATTON,  
 WM. DICKINSON

(For consideration of matters within the jurisdiction of the Committee on Post Office and Civil Service under clause 1(o) of Rule X),

WILLIAM D. FORD,  
 PAT SCHROEDER,  
 M.R. OAKAR,  
 FRANK HORTON,  
 DON YOUNG,

*Managers on the Part of the House.*

DAVE DURENBERGER,  
 BILL ROTH,  
 BILL COHEN,  
 ORRIN HATCH,  
 FRANK H. MURKOWSKI,  
 ARLEN SPECTER,  
 CHIC HECHT,  
 MITCH McCONNELL,  
 PATRICK LEAHY,  
 LLOYD BENTSEN,  
 SAM NUNN,  
 TOM EAGLETON,  
 ERNEST F. HOLLINGS,  
 DAVID BOREN,  
 BILL BRADLEY

(For matters within the jurisdiction of the Armed Services Committee),

JOHN WARNER,  
 GARY HART,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4759) to authorize appropriations for fiscal year 1987 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

### TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the committee of conference.

The actions of the conferees on all matters of difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the two Houses regarding Department of Defense Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate. The special conference group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the Department of Defense Authorization Act, 1987 (S. 2638). In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA

programs which fall into the appropriation categories of Military Pay and Military Construction.

#### SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1987 and establish personnel ceilings applicable to such activities.

#### SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personal ceilings in certain circumstances. Section 103 of the conference report is identical to Section 103 of the House bill and Section 103 of the Senate amendment.

#### SECTION 104

Section 104 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 104 of the conference report is identical to Section 104 of the House bill and Section 701 of the Senate amendment.

#### SECTION 105

Section 105 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 105 of the conference report is identical to Section 105 of the House bill and Section 702 of the Senate amendment.

#### SECTION 106

Section 106 of the conference report provides that funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities, may be obligated or expended during FY 1987 to provide funds, material, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only (1) as authorized in Sections 101 and 102 of the conference report, (2) pursuant to Section 502 of the National Security Act of 1947, or (3) pursuant to any provision of law specifically providing such funds, materiel, or assistance.

Section 106 of the conference report is identical to Section 106 of the House bill. The Senate amendment contained no corresponding provision.

By Section 106, the Congress denies use during fiscal year 1987 of the CIA Reserve for Contingencies to provide assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua. The conferees note that reprogrammings for such a purpose would be subject to the requirements of Section

502 of the National Security Act of 1947 and the procedures normally applicable to such reprogrammings, including approval by the intelligence committees and the appropriations committees of both Houses.

#### SECTION 107

Section 107 of the conference report provides that no agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. In addition, Section 107 establishes as the policy of the United States that no U.S. intelligence agency or entity may provide any intelligence information to the Government of South Africa which pertains to a South African internal opposition group, movement, organization, or individual. Finally, Section 107 provides that any change in that policy, or the provision of intelligence information contrary to that policy, shall be considered a significant anticipated intelligence activity for purposes of Section 501 of the National Security Act of 1947. The conferees expect that intelligence information will be provided contrary to that policy only when such information credibly indicates the imminent likelihood of violent action calculated to threaten human life and provision of such information could be expected to contribute to avoidance of that violent action.

Section 107 of the conference report is identical to Section 107 of the House bill. The Senate amendment contained no corresponding provision.

### TITLE II—INTELLIGENCE COMMUNITY STAFF

#### SECTIONS 201, 202, AND 203

Title II of the conference report authorizes appropriations and personnel end-strengths for FY 1987 for the Intelligence Community Staff and provides for administration of the Staff during FY 1987 in the same manner as the Central Intelligence Agency. The House bill authorized \$21,700,000 and 235 personnel. The Senate amendment authorized \$22,338,000 and 239 personnel. The conference report authorizes \$22,000,000 and 237 personnel.

### TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

#### SECTION 301

Section 301 of the conference report authorizes appropriation for FY 1987 of the sum of \$125,800,000 for the CIA Retirement and Disability Fund. Section 301 of the conference report is identical to Section 301 of the House bill and Section 301 of the Senate amendment.

#### SECTION 302

Section 302 of the conference report provides survivor benefits for certain former spouses of CIA employees who did not benefit from the CIA Spouses' Retirement Equity Act of 1982 (P.L. 97-269,

Title VI) because they were divorced prior to the effective date of that Act (November 15, 1982).

Section 302 of the conference report is identical to Section 302 of the House bill. Section 406 of the Senate amendment contained a substantially similar provision.

#### SECTION 303

Section 303 of the conference report permits former spouses of CIA employees divorced prior to May 7, 1985 to enroll in federal employee health benefits plans in certain circumstances. Section 303 of the conference report is identical to Section 303 of the House bill. Section 407 of the Senate amendment contained a substantially similar provision.

### TITLE IV—COUNTERINTELLIGENCE AND SECURITY

#### SECTION 401

Section 401 of the conference report authorizes the Director of the Federal Bureau of Investigation and the Secretary of Defense to pay the expenses of hosting foreign official visitors in the United States to consult with FBI and DOD officials on counterintelligence matters. Section 401 of the conference report is identical to Section 401 of the House bill. The Senate amendment contained no corresponding provision.

The conferees direct the Secretary of Defense and the Director of the FBI to submit at the close of fiscal years 1987 and 1988 reports to the intelligence committees of the Congress on the amount of funds expended in those fiscal years under the authority granted by Section 401 of the conference report.

#### SECTION 402

Section 402 of the conference report amends Section 9101 of title 5 of the United States Code to grant to the FBI the same mandatory access to State and local criminal records for security clearance purposes that the Department of Defense, the Office of Personnel Management, and the Central Intelligence Agency enjoy under Section 9101. Section 402 of the conference report is identical to the Section 402 of the House bill. Section 502 of the Senate amendment contained a corresponding provision which differed only technically from the House bill provision.

#### SECTION 403

Section 403 of the conference report permits the Secretary of Defense to authorize the use of proceeds from counterintelligence operations conducted by the military departments to offset expenses of such operations not otherwise prohibited by law and to make performance awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or make such awards would not be practicable. Section 403 of the conference report is identical to Section 403 of the House bill, with one modification making clear that the authority to make awards is limited to performance awards. Section 405 of the Senate amendment contained a provision substantially similar to the House bill provision,

but which did not provide for use of proceeds from counterintelligence operations for awards.

Under the authority granted by Section 403 of the conference report, performance awards may be appropriate for an exceptional performance or special achievement in counterintelligence operations which contributes significantly to the Department of Defense counterintelligence mission and merits special recognition.

The conferees emphasize that proceeds of counterintelligence operations of the military departments may be used to meet the expenses of such operations and to make awards to personnel involved in such operations only if the use of appropriated funds to meet such expenses or to make such awards would not be practicable.

Under the authority granted by Section 403 of the conference report, proceeds of a counterintelligence operation of a military department may, but need not be, used to meet the expenses of that operation or to make awards to personnel involved in that operation; such proceeds may also be used to meet the expenses of other counterintelligence operations of the military departments and to make awards to personnel involved in such other operations.

#### SECTION 404

Section 404 of the conference report amends Section 1114(a) of the Right to Financial Privacy Act of 1978 (RFPA) (12 U.S.C. 3414(a)) to grant the FBI mandatory authority to obtain a customer's or entity's records from a financial institution for counterintelligence purposes if the Director of the FBI finds that there are specific and articulable facts giving reason to believe that the customer or entity is a foreign power or an agent of a foreign power as defined in the Foreign Intelligence Surveillance Act of 1978 (FISA) (50 U.S.C. 1801 et seq.). Section 404 of the conference report is identical to Section 404 of the House bill. Section 501 of the Senate amendment contained a substantially similar provision.

After careful consideration, the conferees have concluded that, should the Director of the FBI decide to delegate his authority under Section 404 of the conference report, he should delegate it no further down the FBI chain-of-command than the level of Deputy Assistant Director.

The conferees note that the requirement of "reason to believe" that the customer is a foreign power or an agent of a foreign power is significantly less stringent than the requirement of "probable cause" to believe that the customer is an agent of a foreign power. The conferees intend that the FBI official making the determination required to exercise the authority granted by Section 404 of the conference report will, in applying the "reason to believe" standard, take into account the facts and circumstances that a prudent investigator would consider insofar as they provide an objective, factual basis for the determination.

The conferees expect the FBI to develop and issue guidelines, approved by the Attorney General, for the acquisition, retention, and dissemination of information pursuant to the authority granted by Section 404 of the conference report. These guidelines will, among

other things, implement the requirement that information acquired under the authority may be disseminated to other agencies of the United States only if such information is clearly relevant to the authorized responsibilities of such agencies. The guidelines should also be reasonably designed to minimize the acquisition and retention of information concerning U.S. persons, consistent with the need of the United States for foreign counterintelligence information. The conferees request that the FBI submit the guidelines to the intelligence committees of the Congress prior to their taking effect.

The conferees note that the intelligence committees of the Congress have discussed with FBI officials the current practices of the FBI for obtaining access to financial records in counterintelligence investigations under the existing non-mandatory provisions of Section 1114(a)(1) of the RFPA. In large measure, these practices appear to be consistent with the requirements of new Section 1114(a)(5) providing mandatory access to financial records. However, to the extent, if any, that FBI practice under the non-mandatory authority permits access to a customer's or entity's financial records solely on the basis that the customer or entity is the target of a hostile recruitment effort, such practice with respect to the mandatory authority would conflict with the requirements of Section 1114(a)(5).

#### SECTION 501

Section 501 of the conference report extends to Department of Defense civilian personnel assigned to Defense Attache Offices and DIA Liaison Offices abroad a medical evacuation travel expenses benefit currently available to U.S. Foreign Service personnel, CIA personnel, and certain DOD special cryptologic activities personnel. Section 501 of the conference report is identical to Section 501 of the House bill. Section 404 of the Senate amendment differed only technically from the House bill provision.

#### SECTION 502

Section 502 of the conference report extends for one more fiscal year the extraordinary authority of the Secretary of Defense to terminate a Defense Intelligence Agency civilian employee without regard to normal federal personnel termination procedures. Section 502 of the conference report is identical to Section 502 of the House bill. Section 402 of the Senate amendment would have extended the authority for two fiscal years rather than a single fiscal year.

The failure of the Department of Defense to issue in a timely fashion regulations and delegations of authority necessary to implement the DIA special termination authority granted for a limited period of time several years ago casts doubt on the real need for such authority. Nevertheless, in an effort to provide an opportunity to assess the need for the authority and its value to the Defense Intelligence Agency mission, the conferees decided to extend the authority for another fiscal year.

## SECTION 503

Section 503 of the conference report ensures that, during fiscal year 1987, military personnel of the intelligence components of the military departments may accept Director of Central Intelligence performance awards on the same basis as civilian personnel of intelligence agencies may accept such awards. Section 503 of the conference report is identical to Section 503 of the House bill, except that it applies only during fiscal year 1987. The Senate amendment contained no corresponding provision.

The conferees request that the Director of Central Intelligence submit a report, and the Joint Chiefs of Staff submit a separate report, both by March 1, 1987, expressing their views on whether the authority granted by Section 503 of the conference report should or should not be made permanent law.

## SECTION 504

Section 504 of the conference report enacts a new Section 1590 in Title 10 of the United States Code to authorize the Secretary of Defense to provide for management of civilian intelligence personnel of the military departments, notwithstanding certain civil service laws. Section 504 of the conference report is identical to Section 504 of the House bill, except for the addition in the conference report of the evaluation and reporting requirement added as Section 504(c). The Senate amendment contained no corresponding provision.

Subsection 504(c) of the conference report requires the Secretary of Defense to conduct a comprehensive review and evaluation of the implementation of Section 1590 of Title 10 and to report on the review and evaluation to the Congress no later than March 1, 1989. The conferees expect that, if the Secretary of Defense delegates this duty to evaluate and report, he will delegate it only to a senior official within the Office of the Secretary of Defense and will not delegate it to the Secretaries of the Military Departments or their subordinates. The reporting date of March 1, 1989 ensures a sufficiently lengthy period of personnel management experience under Section 1590 to permit a useful evaluation. The report to Congress shall include the items set forth in Subsection 504(c).

The conferees expect the Secretary of Defense and his subordinates to submit to the intelligence committees of the Congress all regulations, directives, and guidelines issued to implement Section 1590 of Title 10, United States Code, before they take effect.

## SECTION 505

Section 505 of the conference report amends the National Security Agency Act of 1959 to authorize the Secretary of Defense to send NSA civilian employees to be students at accredited professional, technical and other institutions of higher learning for training at the undergraduate level. The purpose of Section 505 is to establish an undergraduate training program, including training which may lead to a baccalaureate degree, to facilitate recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to NSA's mission.

Section 505 of the conference report is identical to Section 505 of the House bill, except for the addition of Section 16(e)(2) of the NSA Act as contained in Section 505 of the conference report. The Senate amendment contained no corresponding provision.

Section 16(e)(2) of the NSA Act as contained in the conference report provides that NSA efforts to recruit individuals at educational institutions for participation in the NSA undergraduate training program established by Section 505 of the conference report shall be made openly and according to the common practices of universities and employers recruiting at educational institutions. The provision would permit NSA to identify interested and qualified students at educational institutions through advertising, contacts arranged through guidance counseling offices or financial aid offices, or through NSA testing programs arranged with officials of the educational institutions. The provision would not permit NSA personnel to identify or assess individuals within educational institutions in any non-public fashion, nor would it permit NSA contacts with students in educational institutions without prior agreement of the officials of those institutions.

The conferees expect NSA to work with responsible officials of educational institutions to ensure the proper confidentiality of related records.

The conferees urge the National Security Agency to be aware of the availability of numerous qualified disabled high school students for employment opportunities and request that the Director, National Security Agency report to the intelligence committees of Congress by March 1, 1987 on the benefits that could accrue by applying the program established under the authority granted by Section 505 of the conference report to those individuals.

#### SECTION 506

Section 506 of the bill requires the Director of Central Intelligence, exercising the authority granted by Section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), to establish a program to send CIA civilian employees to be students at accredited professional, technical and other institutions of higher learning for training at the undergraduate level, similar in purpose, conditions, content, and administration to the NSA program established under the authority of Section 506 of the conference report. Section 506 of the conference report is identical to Section 506 of the House bill. The Senate amendment contained no corresponding provision.

The statutory conditions which apply to the NSA is administering its undergraduate training program under Section 16 of the NSA Act of 1959 as enacted by Section 505 of the conference report apply with respect to the CIA undergraduate training program by virtue of Section 506 of the conference report. Thus, Section 16(e)(2) of the NSA Act as contained in Section 505 of the conference report, which provides that NSA efforts to recruit individuals at educational institutions for participation in the NSA undergraduate training program shall be made openly and according to the common practices of universities and employers recruiting at educational institutions, applies equally to CIA efforts to recruit individuals in educational institutions for the CIA undergraduate

training program. The provision would permit CIA to identify interested and qualified students through advertising, contacts arranged through guidance counseling offices or financial aid offices, or through CIA testing programs arranged with officials of the educational institutions. The provision would not permit CIA personnel to identify or assess individuals within educational institutions in any non-public fashion, nor would it permit CIA contacts with students in educational institutions without prior agreement of the officials of those institutions.

The conferees expect CIA to work with responsible officials of educational institutions to ensure the proper confidentiality of related records.

The conferees urge the Central Intelligence Agency to be aware of the availability of numerous qualified disabled high school students for employment opportunities and request that the Director of Central Intelligence report to the intelligence committees of Congress by March 1, 1987 on the benefits that could accrue by applying the program established under the provisions of Section 506 of the conference report to those individuals.

#### SECTION 507

Section 507 of the conference report requires the Secretary of Defense and the Director of Central Intelligence jointly to submit an unclassified report to the Congress no later than January 3, 1987 describing the civilian personnel systems for CIA, NSA, DIA, and the intelligence components of the Army, Navy, and Air Force. Section 507 of the conference report is the same as Section 507 of the House bill with the exceptions that the House bill had required submission of the report to specified committees of the two Houses of Congress and had specified a different reporting date. The Senate amendment contained no corresponding provisions.

The Senate conferees note that submission of the report by January 3, 1987 will facilitate the comprehensive review of intelligence personnel systems which the Select Committee on Intelligence of the Senate has in progress.

### TITLE VI—MISCELLANEOUS

#### SECTION 601

Section 601 of the conference report provides clear, permanent authority for the Defense Mapping Agency to engage in the exchange of mapping, charting and geodetic data, supplies, and services with foreign countries and international organizations pursuant to agreements for the production or exchange of such data. Section 601 of the conference report is identical to Section 601 of the House bill. Section 403 of the Senate amendment contained a corresponding provision which differed only in that it explicitly required the Secretary of Defense to comply with the requirements of the Case Act (1 U.S.C. 112b) and its implementing regulations for reporting international agreements to the Congress.

The provisions of Section 112b of title 1 apply of their own force to agreements established under the authority granted in Section 601 of the conference report; explicit reference to Section 112b in

Section 601 is not necessary to make the provisions of Section 112b apply.

#### SECTION 602

Section 602 of the conference report adds a new section 503 to the National Security Act of 1947 to specify that a covert arms transfer involving a single article or service of a value exceeding \$1 million is a "significant anticipated intelligence activity" for purposes of section 501 of that Act, thus making explicit the requirement for the executive branch to give prior notice to the intelligence committees of the Congress of such a transfer. Section 602 of the conference report is identical to Section 502 of the House bill. The Senate amendment contained no corresponding provision.

Section 602 places in permanent law the provision enacted for fiscal year 1986 by Section 403 of the Intelligence Authorization Act for fiscal year 1986 (P.L. 99-169).

#### SECTION 603

Section 603 of the conference report amends Section 8312 of Title 5 of the United States Code to provide that an individual convicted of the offense of disclosing the identities of U.S. covert intelligence agents forfeits federal employee retirement benefits. Section 603 of the conference report is identical to Section 603 of the House bill. The Senate amendment contained no corresponding provision.

### TITLE VII—PROTECTION OF UNITED STATES INTERESTS

#### SECTIONS 701, 702, AND 703

Title VII of the conference report consists of Sections 701 and 702, which are identical to Sections 601 and 602 of the Senate amendment, and Section 703, which is similar to Section 603 of the Senate amendment. The House bill contained no corresponding provision.

Section 701 of the conference report amends the definition of "foreign mission" as used in the Foreign Missions Act (Title II of the State Department Basic Authorities Act of 1956) to make clear that the Secretary of State may subject corporations or other commercial entities controlled by a foreign power to the controls of the Foreign Missions Act.

Section 702 of the conference report establishes as the policy of the Congress that the number of Soviet nationals admitted to the United States to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of U.S. nationals who serve as members of the U.S. Mission at the U.N. headquarters unless the President determines that the admission to the U.S. of additional Soviet nationals to so serve would be in the interest of the United States. The provision also includes requirements for reporting the numbers of such Soviet nationals in the United States to the intelligence committees of the Congress and for establishing a plan to implement the policy of parity between U.S. and Soviet U.N. mission sizes established by the Congress.

Section 703 of the conference report amends Section 951 of Title 18 of the United States Code to require registration by those engaged in commercial transactions who agree to operate within the United States subject to the direction or control of a foreign government or official and who either (1) are agents of the Soviet Union, East Germany, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba, or (2) within the past five years, have been convicted of (or pled no contest to) espionage, export control, or nuclear material transactions violations.

#### PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

The House bill and the Senate amendment contained provisions not included in the conference report concerning drug testing of intelligence personnel, CIA and NSA exemption from publication of notice of requests for records destruction approval, establishment of an NSA police force, and requirements for reports concerning a number of subjects, including events in Panama.

Section 701 of the House bill would have required the head of each element of the United States Government involved in intelligence or intelligence-related activities to implement a controlled substances testing program for any employee of such element. The President and the Congress have recently taken action to address the subject of drug abuse by federal personnel on a government-wide basis. The conferees believe that further experience with these new initiatives would be appropriate before Congress considers whether to address legislation specifically requiring controlled substances testing of intelligence personnel. The conferees emphasize that drug abuse by intelligence personnel would be inconsistent with the national interest and note that U.S. intelligence agencies share this view.

Section 104 of the Senate amendment amended the Senate intelligence committee's classified supplement to its committee report through additional directions to the Intelligence Community on a variety of topics. This provision was in the nature of a Senate request for a report from the Director of Central Intelligence and therefore need not be included in the conference report. The Senate conferees have requested a report from the Director of Central Intelligence on the topics covered by Section 104 of the Senate amendment.

Section 401 of the Senate amendment would have amended Section 3303a of title 44, United States Code to make the provisions of subsection 3303a(a) inapplicable with respect to CIA and NSA classified records destruction lists and schedules. Subsection 3303a(a) requires the Archivist of the United States to give notice in the Federal Register and to provide an opportunity for comment upon federal agencies' requests for the Archivist to approve records destruction schedules. According to the submission to Congress made by Acting Director of Central Intelligence John McMahon with respect to this legislative proposal on March 14, 1986, the Archivist requires that notices under Section 3303a(a) with respect to classified records destruction schedules contain only (1) the identity of the requesting agency, (2) the Archives job number assigned to the schedule, and (3) the reason the schedule is excluded from public

disclosure. The conferees concluded that the proposed CIA and NSA exemption legislation was unnecessary because the current requirement for notice and public comment poses no risk of disclosure of classified information and places no administrative burden on CIA and NSA which is any greater than the administrative burden placed on other government agencies generally.

Section 408 of the Senate amendment would have authorized establishment of a National Security Agency police force to provide physical security for NSA installations in the United States similar to the CIA Security Protective Service authorized by Congress by Section 401 of the Intelligence Authorization Act for fiscal year 1985 (P.L. 98-618). As a general matter, the conferees do not favor granting independent statutory authority for U.S. intelligence agency police forces, however limited their authorities and responsibilities. The Congress granted CIA specific, carefully limited statutory authority for its Security Protective Service solely because the CIA could not accept delegation of physical protection authority from the Administrator of General Services without a statute displacing to the necessary small degree the prohibition contained in Section 102(d) of the National Security Act of 1947 on CIA exercising law enforcement powers. No similar statutory restriction on NSA personnel exercising law enforcement powers exists, and consequently NSA can accept delegation of the limited physical security authority it needs from the Administrator of General Services. The conferees expect the Administrator of General Services forthwith to delegate to the Director, NSA the Administrator's authority under the provisions of Sections 318 et seq. of Title 40 and under Section 11 of the National Security Agency Act of 1959 to the extent necessary to permit NSA to provide physical security protection to facilities in the United States owned, occupied, leased or otherwise used by NSA comparable to the physical security protection the CIA Security Protective Service provides to CIA facilities. Once these delegations of authority have occurred and NSA has gained physical security experience under those delegations, the Director, NSA should bring to the attention of the intelligence committees of the Congress physical security deficiencies he discerns, if any, for appropriate legislative consideration.

Section 503 of the Senate amendment provided for FBI access to telephone toll records of foreign powers and agents of foreign powers for counterintelligence purposes in certain circumstances. The conferees support such legislation, but decided not to include it in the conference report since it is expected to become law as part of the Electronic Communications Privacy Act.

Section 604 of the Senate amendment would have required the Director of Central Intelligence to provide a report to the intelligence committees of the Congress by March 1, 1987 concerning whether and to what extent the Defense Forces of the Government of Panama have violated the human rights of the Panamanian people, are involved in international drug trafficking, arms trafficking, or money laundering, or were involved in the death of Dr. Hugo Spadafora. The conferees decided that it was not necessary to include this provision in the conference report, in view of the fact that existing statutory authority requires the Director of Central Intelligence to respond to requests from the intelligence commit-

tees of Congress. The conferees expect the Director of Central Intelligence to provide all relevant information on this subject to the intelligence committees.

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